

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House  
(317) 232-9855

**FISCAL IMPACT STATEMENT**

**LS 7157**

**BILL NUMBER: HB 1273**

**DATE PREPARED:** Jan 11, 2002

**BILL AMENDED:**

**SUBJECT:** Family College Savings Plan.

**FISCAL ANALYST:** Jim Landers

**PHONE NUMBER:** 232-9869

**FUNDS AFFECTED: X GENERAL  
DEDICATED  
FEDERAL**

**IMPACT:** State

**Summary of Legislation:** The bill renames the Family College Savings Plan the College Choice Plan. The bill conforms definitions used in the Education Savings Program law to recent changes to the federal enabling statute. The bill also removes provisions imposing a maximum account balance and a penalty for a distribution that is not used to pay qualified higher education expenses. The bill also repeals the following: (1) several definitions; (2) a statute concerning the investment policies of the program; (3) the requirement that contributions be made in cash only; and (4) the prohibition on an account owner directing the investment of the contributions.

**Effective Date:** Upon passage.

**Explanation of State Expenditures:**

**Explanation of State Revenues:** The bill adopts a number of federal law provisions relating to the operation of federally qualified state tuition credit programs and education savings account plans. These changes include the following:

(1) The bill makes changes to conform to recent federal law changes that authorize higher education institutions, including private institutions, to establish their own prepaid tuition credit programs. (Specifically, the bill changes the definition of "education savings program" to include a trust program or any other program that qualifies under federal law as a "qualified state tuition program." Under recent federal law changes, tuition credit programs operated by higher education institutions are now qualified state tuition programs. However, federal law does not allow private institution programs to include savings account plans. In addition, federal law requires the assets of a private institution's prepaid tuition program to be held in trust and requires the institution to obtain a ruling of the Internal Revenue Service that the program meets the applicable requirements for a qualified tuition program. State conformity with these changes could have a minimal impact on income tax revenue in the future as the existing income tax exemption for distributions

from education savings programs would apply to benefits of private institution tuition credit programs.

(2) The bill adopts the federal definition of “qualified education expenses” for which college savings plan distributions may be utilized. This definition is the same as the current state definition, except that the federal definition was recently changed to include expenses of special needs students which are necessary in connection with the student’s enrollment and attendance at an institution.

(3) The bill eliminates the requirement that contributions to the education savings plan be made in cash. The bill also eliminates the prohibition on a savings account owner directing the investment of the contributions. These provisions are no longer necessary for qualification of education savings plans under federal law.

(4) The bill eliminates the requirement that the Indiana Education Savings Authority impose a penalty of 10% on the earnings portion of distributions not used exclusively for the qualified higher education expenses of the student beneficiary. New federal law imposes a 10% tax on the any distribution not used for qualified expenses of the student beneficiary.

(5) The bill adopts the federal definition of a “rollover distribution” which includes certain transfers when there is a change in beneficiary of the account as is allowed under current state statute. Adoption of federal law would expand the definition of a rollover to include one transfer per year between one education savings program to another without a change in the account beneficiary. This would include transfers between state-operated education savings plans and prepaid tuition plans; or tuition plans that may be operated by higher education institutions.

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:**

**State Agencies Affected:** Indiana Education Savings Authority.

**Local Agencies Affected:**

**Information Sources:**